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NIXON & VANDERHYE  
1100 NORTH GLEBE ROAD  
8TH FLOOR  
ARLINGTON, VA 222014714

EXAMINER

ROBINSON BOYCE, AKIBA K

ART UNIT PAPER NUMBER

3623

DATE MAILED: 02/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/043,406

Applicant(s)

O'BRIEN, ET AL

Examiner

Akiba K Robinson-Boyce

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 44-48 and 50-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44-48, 50-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Status of Claims***

1. In response to the communication received on 11/20/02, the following is a non-final office action. Claims 44-48 and 50-60 are pending in this application and have been examined on the merits. Claims 44-48 and 50-60 are rejected. The previous rejection has been withdrawn and the following is a new rejection.

### ***Claim Objections***

2. Claim 44 is objected to because of the following informalities: Claim 44 depends on a cancelled claim. For examination purposes, the examiner will assume that claim 44 depends from independent claim 51 since claim 44 is similar to claim 52, which depends from claim 51. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 45-48, 50, 53-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wrabetz et al (US 5,442,791), and further in view of Parad (US 5,369,570).

As per claims 45-47, 53, 54, 55, Wrabetz et al discloses:

receiving a service request/an input connected to a distributed processing environment for receiving a service request...(Col. 7, lines 50-54, sending the resource request for remote execution services);

identifying component processes for use in provisioning the requested service, (Col. 14, lines 37-42, w/ Col. 29, line 58-Col. 30, line 3, represented by the resource instance, where the resource instance is associated with procedures);

establishing conditions applicable to provision of those component processes, (Col. 14, lines 51-53, represented by constraining expressions);

providing a response to the service request, said response comprising an indication of availability of the requested service/service request processing means.../an output for providing a response...(Col. 7, lines 55-58, performing a remote service in response to a remote request);

Wrabetz et al fails to disclose the following, however Parad discloses:

accessing an up-datable data store and storing said conditions when established/an updatable data store...(Col. 29, lines 56-61, Col. 10, line 5 w/ Col. 26, lines 36-42, Fig. 14 [shows rules part of database], where user established rules in database through use of a menu));

wherein a service request is processed by accessing one or more of the previously established conditions in the data store, processing the request using one or more established conditions, and producing said response/wherein the processing means is adapted to process a service request by accessing one or more of the

previously established conditions... (Col. 26, lines 37-41, where rules are retrieved from the database in order to determine appropriate calendars);

negotiation means for use in establishing conditions... (Col. 29, lines 56-61, where the negotiation occurs between the user and the intelligence of the action control via logic).

wherein one or more of said established conditions has an associated expiry time of the one or more conditions itself for storage in the data store, (Col. 16, line 48-51, lines 53-54, represented by the after interval);

an expired or unidentified condition is detected in the data store, which condition is applicable to a component process for the provision of a requested service, and a substitute condition is established/ wherein said processing means is adapted to detect an expired or unidentified condition in the data store, which condition is applicable to a component process for the provision of a requested service to establish a substitute condition ... (Col. 28, lines 38-51 w/ Col. 29, lines 41-61, where if there is a rule violation, the user sends a message to the user's action control where the user can use the action control to establish another rule with the use of a menu).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to combine the teachings of Wrabetz et al and Parad since each reference discloses the management of resources and also with the motivation of showing how updating conditions or rules can be utilized in a resource management environment.

As per claim 48, Wrabetz et al discloses:

initiating one or more of said component processes identified for use in the requested service, (Abstract, lines 28-30, represented by forking remote execution control processes).

As per claim 50, Wrabetz, et al discloses:

programmed computer means for negotiating with another entity, in response to a request from said other entity, to provide a service, (Col. 7, lines 55-58, Col. 10, lines 49-53, represented by the computer processor);

means for accessing one or more resources available for use by the system to provide a service, (Col. 9, lines 36-41, represented by access to all of the resources in the network);

means to update said data about said system on the basis of the past performance of the system, (Col. 26, lines 39-42, where the past performance data is represented by a previously created or requested resource).

Wrabetz et al fails to disclose negotiation means or the negotiating means including a data store, however Parad discloses these features in the following passages: (Col. 29, lines 49-54, where the user and the intelligence of the action control utilize logic to negotiate and the data store is represented by the tables of the database).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for the negotiation means to have a data store with the motivation of storing requested resource data for reference purposes. Data stores are traditionally used to store information for later referral. When negotiating, negotiators need a place to reference back to when negotiation terms are constantly changing.

As per claim 56, Wrabetz, et al discloses:

means to access said data store for storing data related to services offered by the system and to one or more entities which have an interest in receiving information relating to one or more of said services, together with means to transmit information based on said data related to services to the one or more entities which have an

interest, (Col. 20, lines 53-56, where the makefile represents the data store since it specifies resource selection criteria).

As per claim 57, Wrabetz, et al discloses:

which further comprises initiation means to initiate one or more component processes in provision of a requested service, (Abstract, lines 26-31, where the initiation of component processes is represented by the initiation of the remote request which in turn initiates a remote execution control process).

As per claim 58, Wrabetz, et al discloses:

provisioning a requested service requires provision of a selected set of component processes, (Abstract, lines 36-41, where selected set is represented by a separate process for each remote request);

Wrabetz et al fails to disclose the following, however Parad discloses :

the negotiation means establishes and stores a set of conditions applicable to provision of the component processes of the selected set, (Col. 29, lines 56-61, where negotiation takes place between the user and the intelligence of the action control via logic and the conditions are represented by rules);

the processing means is adapted to process a service request by accessing the stored set of conditions in the data store, processing the request using said stored set, and producing said response, (Col. 26, lines 37-41, where the rule [condition] is retrieved from the database and processed by determining the calendar).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to negotiate, establish and store a set of conditions with the motivation of processing a resource request in which all parties can agree on and additionally for reference purposes. Data stores are traditionally used to store

information for later referral. When negotiating, negotiators need a place to reference back to when negotiation terms are constantly changing.

As per claim 59, Wrabetz, et al discloses:

using a programmed computer to negotiate with another entity, in response to a request for said other entity, to provide a service, (Col. 10, lines 48-53, represented by external access to other networks);

accessing one or more resources available for use by the system to provide a service, (Col. 9, lines 36-41, represented by access to all of the resources in the network);

updating said data on the basis of the past performance, (Col. 26, lines 39-42, where past performance is represented by a previously created or requested resource instance).

Wrabetz fails to disclose the following, however Parad discloses:

said negotiating means including use of a data store containing data relating to a measure of the current capacity to provide a service, and being arrange to negotiate based at least in part on said data to provide a service in response to a request, ( Col. 29, lines 56-61, where negotiation takes place between the user and the intelligence of the action control via logic and the conditions are represented by rules);

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to utilize a data store for negotiation so both parties can have referral means for previously discussed conditions. Data stores are traditionally used to store information for later referral. When negotiating, negotiators need a place to reference back to when negotiation terms are constantly changing.

As per claim 60, Wrabetz, et al discloses:



receiving a service request from an entity in a distributed processing environment, (Col. 16, lines 22-24, represented by the user program executing on a workstation for requesting information);

processing a service request and providing a response thereto and, based at least in part on data held in the data store, determining whether to provide a service, to propose conditions under which the system is willing to provide a service or to decline to provide a service, (Col. 7, lines 55-63, Col. 14, lines 49-54, represented by the remote service routine performing the service in response to the user request);

wherein said plural instances are connected by a communications network, wherein at least one of said instances is arranged to provide more than one instance of a service, or of a negotiation for a service, to one or more requesting systems concurrently, (Col. 7, lines 54-67, Col. 10, lines 40-53, represented by the homogeneous and heterogeneous computer network environment);

wherein each of said method instances is associated with a plurality of organizations, each of said instances having processing and accessing stored parameters in an up-datable data store in respect of each of its associated plurality of organizations so as to provide a virtual organization, (Fig. 10, represented by different workgroups).

Wrabetz et al fails to disclose the following, however Parad discloses;

accessing an up-datable data store...(Col. 29, lines 56-61, Col. 10, line 5 w/ Col. 26, lines 36-42, Fig. 14 [shows rules part of database], where user established rules in database through use of a menu)).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to access an updatable data store with the motivation of having

referral means for changing conditions and rules for resource requests when required. Data stores are traditionally used to store information for later referral. When negotiating, negotiators need a place to reference back to when negotiation terms are constantly changing.

5. Claims 44 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wrabetz et al (US 5,442,791), and further in view of Babeyev (US 5,615,121).

As per claims 44 and 52, Wrabetz et al fails to disclose the following, however Babeyev discloses:

Wherein the virtual organization exists for a predetermined period, (Col. 16, lines 1-2).

It would have been obvious at the time of the applicant's invention for the virtual organization to exist for a predetermined period with the motivation of making sure that service requests are fulfilled in a reasonable amount of time. In resource allocation, it is traditional to put time constraints on allocating resources so workflow will run smoothly.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily

published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claim 51 is rejected under 35 U.S.C. 102(e) as being anticipated by Wrabetz, et al (5442,791).

As per claims 51, Wrabetz, et al discloses:

an input connected to a distributed processing environment for receiving a service request...(Col. 16, lines 22-24, where input is represented by the user program executing on a workstation to request information);

a response output...(Col. 7, lines 55-63, Col 8, lines 1-7, [execution interface], Col. 16, lines 58-60);

processing means...(Col. 7, lines 55-63, Col. 14, lines 49-54, Col. 16, lines 26-33, represented by the computer processors);

means to access the data store...(Col. 12, line 50-Col. 13, line 10, where the means are represented by the interface 41 and the data store is represented by the RIB database);

wherein said plural systems are connected by a communications network...(Fig. 3, Col. 11, line 45-Col. 12, line 9, esp. Col. 11, lines 60-63, where the plural systems are represented by the agents and the communications network is represented by the heterogeneous computer network environment);

wherein each of said systems is associated with a plurality of organizations...(Fig. 10, where the organizations are represented by different workgroups).

***Response to Arguments***

8. Applicant's arguments with respect to claims 44-48 and 50-60 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 703-305-1340. The examiner can normally be reached on Monday-Friday, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 703-305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7238 [After final communications, labeled "Box AF"], 703-746-7239 [Official Communications], and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

QRB.

A. R. B.  
February 10, 2003

  
**TARIQ R. HAFIZ**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3800**